

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1980 OF 2004
WITH
CRIMINAL APPLICATION NO. 5205 OF 2004

Mr. Ghanshyam G. Khanchandani ... Petitioner

versus

The State of Maharashtra & ors. ... Respondents

...

Petitioner in person.

Mr. Madhusudanan Nair for Respondent No. 3.

Mr. V.B. Konde Deshmukh, A.P.P. for the State.

...

CORAM : A.M.KHANWILKAR, J.

28th January 2005

P.C.:

1. Heard the Petitioner in person at length. On considering the arguments canvassed across the Bar, the substance of the grievance is that the complaint is founded on a cheque which was issued in relation to an agreement executed between the parties, which, however, has been terminated by

the complainant. The argument is that if the agreement is terminated, there is no legally enforceable liability, and if it is so, the criminal action against the Petitioner for case of dishonour of cheque cannot proceed. I find no substance in this submission. Neither the complaint nor the other material produced before the Court would permit taking the view that the complainant has admitted the position that the agreement has been terminated and for which reason, the Petitioner will not have to pay any amount. On the other hand, the complaint clearly asserts that the cheque was issued in respect of the transaction between the parties and the Petitioner is liable to honour the cheque towards his obligation therefor. The fact whether it remains a legally enforceable liability or not is a matter for trial and cannot be the basis to either quash the criminal action or discharge the Petitioner, as is the attempt made on behalf of the Petitioner before this Court.

2. Be that as it may, my attention has been rightly drawn by the Counsel for the Respondent to at least 8 orders passed from time to time

rejecting the similar contention taken by the Petitioner before the lower Court as well as this Court. Moreover, it appears from the orders which were produced before me that the Petitioner is in the habit of making grievance against the Presiding Judge of the Court. Perhaps, the attempt is only to ensure that the trial does not proceed further in accordance with law.

3. Insofar as the request of the Petitioner for transfer of the case is concerned, I see no basis to accept the same. In my opinion, as already observed, the Petitioner is only trying to protract the proceedings by taking different excuses including of making unwarranted and unfounded allegations against the Judges of the lower Court.

4. Insofar as the grievance relating to the order passed by the Court below directing arrest of the Petitioner is concerned, it is observed that the Petitioner may furnish appropriate surety as required by the lower Court. On compliance of that requirement, the grievance in that behalf will not survive.

5. Taking any view of the matter, I see no reason to interfere in exercise of writ jurisdiction or for that matter, inherent jurisdiction under section 482 of the Cr.P.C. Hence, both these petitions are dismissed.

6. In the peculiar facts of this case, I would think it appropriate to direct the trial Court to expeditiously decide the trial, as it is pending since 1997, and in any case to conclude the same not later than six months from today. The trial Court shall proceed on day to day basis once the trial commences. In case it is observed by the trial Court that the Petitioner is responsible for delaying the trial in any manner, that fact be recorded in the roznama, which can be taken into account as and when occasion arises.

7. Parties to act on the authenticated copy of this order.

(A.M.KHANWILKAR, J.)